Environmental Performance Partnership Agreement

The Washington State Department of Ecology
And
The US Environmental Protection Agency

State Fiscal Year 1999
July 1, 1998 - June 30, 1999

August 1998

WASHINGTON STATE DEPARTMENT OF ECOLOGY

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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Environmental Performance Partnership Agreement
For July 1, 1998 - June 30, 1999

Between The Washington State Department of Ecology And The US Environmental Protection Agency - Region 10

We, the undersigned, Tom Fitzsimmons, Director for the Washington State Department of Ecology and Chuck Clarke, Regional Administrator for the United States Environmental Protection Agency, Region 10, enter into this Environmental Performance Partnership Agreement for the protection of Washington's air quality and water quality and sound management of hazardous waste.

This Agreement is a reflection of the relationship Ecology and EPA Region 10 have been moving toward over the last several years: a partnership with each other and with Washington's citizens in protecting, enhancing and restoring our natural environment. In this Agreement we have identified clear environmental priorities and desired results.

Both Ecology and EPA Region 10 will exert their best efforts in the performance of this Agreement. Disputes regarding the performance of either party to this Agreement will be resolved, consistent with applicable regulatory dispute resolution procedures, at the lowest level possible within our organizations. If this is not feasible or successful, the next level for dispute resolution will be the mangers responsible for the program area in question. The final level of appeal will be the Director of Ecology and the Regional Administrator for EPA Region 10.

It is our belief that this Environmental Performance Partnership Agreement will improve environmental protection in Washington State. In addition, we hope this Agreement communicates to local communities, tribal governments and citizens our mutual goals and priorities for the upcoming state fiscal year.

Signed,

DATE: JULY 16, 1998
Tom Fitzsimmons, Director
Washington Department of Ecology
PO Box 47600
Olympia WA 98504-7600

DATE: July 20, 1998
Chuck Clarke, Regional Administrator
US Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle WA 98101

TABLE OF CONTENTS

SECTION ONE - General Information

BACKGROUND

This Fiscal Year (FY) 1999 Performance Partnership Agreement (PPA) continues a long series of agreements between the Department of Ecology (Ecology) and the Environmental Protection Agency (EPA). The agreement includes activities of the water, waste and air programs of Ecology and EPA and covers the period from July 1, 1998 to June 30, 1999. In the future, this agreement will be developed for a two-year period consistent with the state biennial budget process.

Over the years this agreement has both changed names and changed content. Future agreements will also reflect the issues of the times as well as changing relations between the parties to this agreement. The basis for the commitments and decisions contained in this PPA are the result of joint Ecology and EPA management and staff agreements reached earlier this year. Although the staff of the two agencies prepared this PPA, agency management and public comments were considered when the final PPA was prepared.

This year Ecology and EPA management agreed that the focus of the PPA would be limited, looking at incorporation of national recommended CORE Performance Measures and committing to improving enforcement reporting methods. In addition, information describing some of the alternative enforcement methods used by Ecology to achieve compliance with environmental laws is included. Future PPAs may include reporting on the effects of these alternative measures to achieve compliance. Ecology, Oregon Alaska, and Idaho and EPA Region X are developing a strategy for demonstrating results of compliance assistance techniques, sharing information on these initiatives, and reporting environmental results.

PURPOSE

The Department of Ecology and the EPA support a shared responsibility in meeting the environmental and public health priorities of Washington State. This Environmental Performance Partnership Agreement for state fiscal year 1999 (July 1, 1998 through June 30, 1999) is to:

Establish mutual environmental goals, objectives, activities and performance for state fiscal year 1999.
Maintain a core level of environmental protection for all of Washington's citizens.
Measure environmental progress using indicators that are reflective of environmental conditions, trends and results.

- Allocate Ecology and EPA Region 10 resources to the highest environmental priorities of the State.
- Establish a joint work plan for administering the federal grant dollars that EPA Region 10 provides to Ecology for air quality, water quality and hazardous waste management.

In addition to this partnership between Ecology and EPA, both agencies have relationships with the 27 federally recognized tribes of Washington State, who are sovereign nations with regulatory authorities and Treaty Reserved rights. Tribal resources are not limited by the boundaries of Indian Reservations and will be impacted by the actions detailed in this Agreement. Ecology and EPA are each committed to working with tribal governments in the development of priorities and approaches to environmental protection on a government to government basis. This Agreement is not intended to define or modify these relationships and tribal lands are not included under this Agreement. Ecology and EPA each have and will continue to develop cooperative management relationships and environmental agreements with individual tribes outside of this Environmental Performance Partnership Agreement.

GUIDING PRINCIPLES AND STRATEGIES

Ecology and EPA Region 10 agree to the following principles to further our partnership approach to protecting Washington's environment and its people:

We will:

Continue to work as partners to build trust, openness, and cooperation,
Manage our collective resources to meet the highest environmental needs in the state,
Capitalize on each other's strengths and expertise,
Communicate more frequently and openly between ourselves and others, and
Carry out the compliance assurance principles as stated in Section Three of this Agreement.

In addition, Ecology and EPA firmly support the following concepts that are reflected throughout this Agreement:

Service to the public,
Cooperation and coordination with other federal, Tribal, state and local government agencies,
Clearly stated expectations, and
Activities that demonstrate environmental or public health improvement.

ECOLOGY AND EPA's MISSION AND GOALS

Ecology and EPA have similar missions, goals and objectives that guide agency operations and decisions. It is important that each respect the roles and responsibilities of the other.

THE DEPARTMENT OF ECOLOGY

The mission of the Department of Ecology is to protect, preserve and enhance Washington's environment, and promote the wise management of our air, land and water for the benefit of current and future generations.

To achieve this mission, Ecology has adopted the following goals.

Prevent Pollution
Clean Up Pollution
Support Sustainable Communities and Natural Resources

THE ENVIRONMENTAL PROTECTION AGENCY, REGION 10

On behalf of the people of the United States, our mission is to protect and restore the environment of the Pacific Northwest and Alaska for present and future generations.

To accomplish this mission, EPA Region 10's environmental objectives are:

Protect diverse ecosystems and ensure healthy airsheds and watersheds.
Clean up contaminated sites.
Minimize the discharge of pollutants to land, air and water.
Prevent pollution through source reduction.
Reduce the generation of air, land and water pollutants.

ECOLOGY/EPA JOINT PRIORITIES

Ecology and EPA have agreed to the following priorities:

Improve data systems and ensure accurate information is input into national data sets.

Establish a one-year work group to review existing data standards and report back to Ecology and EPA Managers with recommendations for how to achieve consistency between agencies and programs.

Explore opportunities to incorporate Alternatives methods to achieve compliance into national data reporting systems.

Emphasize environmental results through the improved use of environmental indicators:

Incorporate, where practicable, national core measures.

Incorporate environmental indicators into program evaluations.

Explore opportunities for coordinated work in watersheds and on issues related to Salmon and ESA.

Incorporate pollution prevention into media workplans.

Work to bring innovative initiatives and strategies into the mainstream.

Increase public education.

Increase emphasis on protection of children (EPA national priority).

EPA will work to fulfill their responsibility on Tribal lands, including program implementation and compliance assurance.

EPA will work to assure compliance with environmental laws at federal facilities and on federal lands.

Ecology will work to assure compliance with environmental laws.

ECOLOGY/EPA ENVIRONMENTAL GOALS

Ecology and EPA have agreed to the following environmental goals:

AIR

Attain air quality standards in air sheds that violate federal and/or state air quality standards.

Maintain air quality in air sheds that meet federal and/or state air quality standards.

Prevent unacceptable degradation of air quality in order to protect public health and welfare.

Improve service to the public and business community.

WATER

Participate in the development and implementation of a new Ecology comprehensive watershed approach to water management, and increase EPA and other federal agency involvement.

Implement the strategy to complete Total Maximum Daily Loads (TMDLs) for waters on the federal Clean Water Act (CWA) Section 303(d) impaired waters list for 1996 consistent with available resources.

Continue to enhance the state's Nonpoint Source Program through planning, coordination, technical assistance, and increased voluntary compliance at the local level.

Other shared goals and priorities for SFY 99 are:

Target improvements to the state's surface water quality standards that will enhance the effective and efficient protection of beneficial uses, threatened or endangered species, and critical habitats.

Promote the protection of ground water resources through coordinated state and federal technical assistance and outreach to local jurisdictions.

Promote coordinated local, state, interstate, federal, and international pollution prevention and abatement efforts in special geographic areas, including implementation of the Mid-Columbia Basin Memorandum of Understanding (MOU).

Maintain an effective compliance assurance program targeted to environmental results by conducting inspections of high priority facilities, providing both technical and financial assistance, and taking both formal and informal enforcement action when warranted.

Develop AFO and/or CAFO (confined animal feeding operation) strategy.

HAZARDOUS WASTE

Minimize environmental threats caused by mismanagement of hazardous waste by implementing effective compliance assurance activities including fair and firm enforcement;
Continue to improve the Dangerous Waste Regulations and maintain an authorized program;
Work toward reducing the production of hazardous waste in the state to 50% of the 1990 level;
Accomplish safe, timely permitting, closure and corrective action; and
Improve access, internally and externally, to meaningful, quality information for use in accomplishing our work including collecting information to measure our success.

MEASURING FOR ENVIRONMENTAL RESULTS

One of the key benefits in the preparation of this Agreement is the continued recognition that we need to measure and communicate environmental results through the use of environmental indicators. Environmental indicators are aspects of the environment (known as parameters) which are monitored regularly to show trends or changes in a particular environmental condition. In short, they help us evaluate if something is improving or getting worse. An environmental indicator may include an animal or plant that is particularly sensitive to an environmental change, a chemical or pollutant in water, soil or air, or simply a measure of the physical quantity of a resource.

Ecology has already been using environmental indicators to help make informed decisions.
An additional benefit to developing and using environmental indicators is the ability to communicate the actual health of the environmental to the public. Ecology publishes the report "Washington's Environmental Health" each year. The last report was published in September 1997.

AGREEMENT COVERAGE

This Agreement is between the Department of Ecology and EPA Region 10. Indian Country and tribal resources are not included under this Agreement. EPA and the state each have and will continue to develop separate environmental agreements with individual tribes outside of this Agreement.

Both Agencies recognize that numerous on-going relationships and commitments will continue, as negotiated. Unless superseded by this Agreement, all existing commitments and requirements remain in effect. These include, but are not limited to:

Delegation of the National Pollutant Discharge Elimination System (NPDES) Program
Compliance Assurance Agreements for water, air and hazardous waste management
State Revolving Loan Fund Operating Agreement
State Revolving Loan Fund Intended Use Plan
National Estuary Programs
Nonpoint Source Assessment Report
Nonpoint Source Statewide Management Plan
Enforcement Response Policy for Resource Conservation and Recovery Act
Resource Conservation and Recovery Act Memorandum of Understanding

This Agreement includes joint Ecology and EPA Region 10 activities in air, hazardous waste management and water

which are not necessarily funded by federal dollars but have been identified as areas of partnership for the two agencies. This Agreement does not cover all Ecology programs receiving EPA grant assistance. However, the guiding principles and concepts stated above are reflected in all Ecology and EPA interactions.

Following is a table of the air, hazardous waste management and water grants to Ecology from EPA, which are covered in this Agreement. This Agreement constitutes the Ecology and EPA work plan for the award or continuation of these grants.

	EPA #	ECOLOGY TITLE	EPA CATALOG TITLE	EPA GRANT	END DATE
AIR QUALITY					
BB99-02	66.001	Air Base FY96	Air Pollution Control (105)	1,107,000	6/30/99
BB99-03	66.001	Local Air FY96	Air Pollution Control (105)	1,371,000	6/30/99
BP99	66.001	Air Quality	Air Pollution Control (105)	Unknown[1]	6/30/99
PF01-02	66.606	PM Fine Particulate	Air Pollution Control (105)	722,000	12/31/98
PF02-02	66.606	PM Fine Particulate	Air Pollution Control (105)	722,000	12/31/99
B014	66.951	Central WA Air Quality Work	Air Pollution Control (105)	5,000	10/31/98
B015	66.501	Spokane PM Health Effects Study	Air Pollution Control (105)	247,000	11/15/98
B016	66.708	Pollution Prevention Alt/Hog fuel	Air Pollution Control (105)	110,000	12/31/99
WATER PROGRAMS					
E---	66.461	Wetlands Functional Assessment	Wetlands Protection	40,000	8/31/99
F079	66.438	State Mgmt Asst Grant 205(g): FY 94	Construction Mgmt Asst 205(g)	400,000	6/30/2000
F081	66.460	319(h) Nonpoint FY96	Clean Water Act 319(h)	1,910,000	1/31/99
FA97	66.460	319(h) Nonpoint FY97	Clean Water Act 319(h)	1,850,000	4/8/2000
F092	66.606	Agriculture Economic Analysis		35,000	9/30/98
F094	66.606	Riparian Buffer Monitoring	Clean Water Act 104(b)(3)	5,000	12/31/98
F971	66.701	Multimedia Innovative Compliance	Toxic Substances Control	500,000	12/31/2001
FB99	66.605	Water Grant	Performance Partnership Grant	2,102,000	6/30/99
G301 95	66.458	SRF Loan Program 95	State Revolving Fund	21,420,000	12/31/99
F043	66.606	Interagency Groundwater Coordination		27,000	9/30/99
F---		TMDL Policy		50,000	06/30/99
F---		Landscape TMDL		112,000	6/30/99
G606	66.454	Water Quality Planning:	WQ Mgmt Planning 205(j)(2)	476,000	6/30/99
F098	66.463	Puyallup River Effluent Trading		40,000	6/30/99
F101	66.606	Small Community Env. Comp.		60,000	9/30/99
F102	66.456	Hardship Grants for Rural Communities		937,000	6/30/2003
FA98	66.460	319(h) Nonpoint FY 98		1,034,000	12/31/2000
HAZARDOUS WASTE					
M203	66.801	Hazardous Waste RCRA FY97	Haz Waste Mgmt Support	2,332,000	6/30/99
NB93	66.463	Biosolids Management Program	Clean Water Act 104(b)(3)	39,000	9/30/99
N401	66.463	Conversion to Watershed/Biosolids	Clean Water Act 104(b)(3)	65,000	12/31/98

[1] includes $150,000 for FY 99 and carry forward money from FY 98.

Ecology and EPA have relationships with the 27 federally recognized Indian tribes of Washington State, who are sovereign nations with regulatory authorities and with rights and resources reserved by treaties or by other means. The United States government has a unique trust responsibility to tribal governments arising from Indian treaties, statutes, executive orders and court decisions. The EPA Indian Policy is that EPA will operate within a government-to-government relationship with federally recognized Indian tribes and will support the principle of tribal self-government in the implementation and administration of federal environmental programs in Indian Country. EPA intends to emphasize to other agencies that implement environmental programs the importance of working with Tribes and Tribal interests. EPA also encourages cooperation between state, Tribal and local governments to resolve environmental issues of mutual concern. The Endangered Species Act and recent proposed and real listings in Washington State make it extremely important that Ecology and EPA pay particular attention to working with and coordinating activities with Tribes and Tribal interests as plans are made to address ESA issues.

This Agreement is not intended to define or modify these relationships and "Indian Country" and tribal trust resources are not included under the Agreement. Ecology and EPA each have and will continue to develop separate environmental agreements with individual tribes outside of this Environmental Performance Partnership Agreement.

PERFORMANCE PARTNERSHIP GRANT

Ecology and EPA are entering into a Performance Partnership Grant for state fiscal year 1998. The following water grants are included in the Performance Partnership Grant:

Surface Water 106 Grant (Basic Water Grant)
Groundwater 106 Basic Grant
Groundwater Pesticides Grant
Water Quality 104(b)(3) Grant
Underground Injection Control Grant
Pollution Prevention Incentives for States Grant

The purpose of the Performance Partnership Grant is twofold:

Reduce administrative burden by consolidating several grants into one.
Increase the flexibility of moving resources among grants/programs to meet the highest environmental water quality needs in the State.

EVALUATION PROCESS

At mid-year and year-end, Ecology and EPA Region 10 will assess progress, as well as identify adjustments and additional actions that need to be taken, throughout the term of this Agreement. This assessment will include the following elements:

Effectiveness: how readily the Agreement enabled Ecology and EPA to direct resources to improve environmental outcomes.
Public credibility: how credible and reliable the public finds the measures used to report environmental outcomes.
Fiscal soundness and program accountability: how well this Agreement enabled Ecology and EPA to manage public funds in an efficient, effective and economical manner.

The findings from these evaluations will be used to develop any further refinements that might be needed.

Program reviews from EPA and other Federal agencies are to be expected. Reviews from the GAO and Inspector General Office are going to occur and will generally not be scheduled in advance. EPA Programs and OECA do have the ability to schedule and establish with the state program reviews or audits. It is important that EPA reviews take into account reviews conducted by other federal agencies when scheduling their reviews.

PUBLIC INVOLVEMENT OPPORTUNITIES

Public comment on the draft Environmental Performance Partnership Agreement will be accepted through June 30, 1998. Comment letters and responses to the comments will be included in Section Seven: Responsiveness Summary of this Agreement.
This Environmental Performance Partnership Agreement is available on both Ecology's and EPA's Internet Home Page at the following addresses:

Ecology: http://www.wa.gov/ecology

EPA: http://www.epa.gov/docs/region10/www/r10.html

Further information can be obtained by contacting:
For Ecology: For EPA Region 10:

SECTION TWO - Special Projects

INFORMATION INTEGRATION

DESCRIPTION

In 1995, Ecology began a long-term project to integrate its environmental and business information and make it more accessible to others. The reasons Ecology decided to integrate its information, are:

Ecology's business is changing from program by program decision-making to a multi-media (air, water, land) and geographically based process.
Access to our data is a growing need by local government decision-makers and the public.
Ecology has many autonomous data management systems with little access or consistency across the agency.
Combining information is functionally very difficult.
Much of our environmental information is used once and then effectively lost for future use.

GOAL

From their desktop, users will be able to evaluate multi-media, multi-program data and geographically summarize or depict information. Ecology staff will have access to the administrative information about the facilities and sites that we manage. External users (via the Internet) will also have access to facility related information.

The integrated information management goal has five critical components:

Multi-media information integration across program areas (air, water, land).
Cross-functional integration of information (for example, between enforcement and release data).
Ecology expenditures linked to activities which are linked to environmental conditions and results.
Geographic-based analysis. Multiple modes of access (or, query capabilities) are another highly desirable feature.
Data are of known quality and are presented using consistent standards.

OBJECTIVES AND ACTIVITIES

Ecology's objectives and activities for fiscal year 1999 are:

Increase the ability of Ecology to collect, analyze, report and share multi-media information throughout the state.
Fully implement the Environmental Information System. This is defined as the collection of analytical data available to determine the environmental condition of land and water throughout the state.
Move data from our older legacy systems to the newly constructed Facility and Site Identification System and the Environmental Information System.
Partner with other agencies and tribes in order to make our environmental monitoring activities more complete and beneficial to a wider audience in a shorter period of time.
Implement established data standards for all Ecology Programs, including EPA required reporting requirements.

In support of Ecology's Integrated Information Project, EPA will:

Work with Ecology Information Integration staff to explore ways to fund and increase statewide Geospatial Information System (GIS) coverage of environmental significance.

Explore ways to pilot cooperative programs designed to provide the public and local communities access to information.

Explore ways to improve and fund greater data collection and storage consistency, reduce duplication, improve consistency across the regulatory programs (for example, air, water and waste) and diminish duplicative reporting burdens placed on the regulated community.

Work with Ecology to make maps of Facility/Site Information available to the public via the Internet.

Participate with Ecology on a one-year work group to develop a report on opportunities for establishing data standards aimed at consistency between agencies and programs.

In an effort to increase access to current water quality information, the Department of Ecology each month publishes the more than 300 water quality results from rivers and streams across Washington. Users of the Ecology web site can now view preliminary statewide water quality results, which have exceeded Water Quality Standards criteria. These monthly "exceedence reports" are normally posted within one month of receiving the data from the Manchester Environmental Lab. The reports can be accessed through Ecology's web site on the Internet at: http://www.wa.gov/ecology/eils/fw_riv/monthly/riv_excds.html

REGIONAL SALMON RELATED ENVIRONMENTAL INDICATORS

DESCRIPTION

Ecology and EPA are participating in a work group to identify a set of environmental indicators for use on a region-wide basis. The mission of the Pacific Northwest Environmental Indicator Work Group (Work Group) is to promote the ongoing development and use of integrated environmental indicators for decision makers to protect or restore the environmental quality of the Pacific Northwest for present and future generations. Other members of the Work Group include Alaska, Oregon, Idaho, British Columbia and Environment Canada (Pacific and Yukon Region).

GOALS

Ecology and EPA in collaboration with the five other environmental agencies piloted one region-wide issue during fiscal year 1998: Salmon stocks at risk. This pilot effort focused on developing a set of habitat protection indicators linked to salmon stocks at risk.

Based upon Work Group's completion of a set of salmon habitat protection indicators, Ecology's goal is to determine if the newly developed indicators are useful and appropriate in determining the health of habitat for salmonids.

OBJECTIVES AND ACTIVITIES

Ecology will "test" the set of indicators in one watershed during the summer of 1998 to determine data availability and gaps and monitoring requirements that support the use of these indicators.

Critical to this "test" is the analysis of how well the habitat protection indicators inform us as to what is occurring in the watershed. Based upon the analysis, Ecology will determine if the indicators need to be modified. In addition, we will determine the statewide applicability and monitoring requirements of the indicators.

STATE ENVIRONMENTAL EXCELLENCE PROGRAM

DESCRIPTION

The Environmental Excellence Program was authorized by the Washington State Legislature during its 1997 session. The program's purpose is to allow businesses, industry associations, or local governments (called sponsors) to explore innovative ways to protect human health and the environment, by improving operating efficiency.

Each agreement between a sponsor and its regulating agency creates enforceable requirements--specific to the sponsor's operations--which may supersede existing general state legal requirements.

The changes proposed by the sponsor must produce either improved overall environmental results (compared to the participating facility's performance history, or current requirements), or the proposed methods or technology must be more cost effective, without decreasing the facility's overall environmental results.

During the past year Ecology's major objective was to inform the public and potential applicants regarding opportunities and challenges provided by this new law. To accomplish this objective Ecology did the following:
Developed principles for environmental excellence program agreements.
Communicated with a wide range of stakeholders, including representation from public interest groups, EPA, labor representatives, municipalities, tribes, the regulated community and concerned citizens.
Provided education and outreach presentations and materials for interested parties.
Developed a web site for electronic access to information related to environmental excellence program agreements.

GOALS

Respond to and help generate proposals to develop projects that will provide improved environmental results while providing protection to human health and the environment.

The success of any such projects will depend on:

Effective Notice and Opportunity for comment.
Enforceable limits as well as non-enforceable goals.
Adequate monitoring and reporting.
Periodic review and evaluation.

ECOLOGY'S OBJECTIVE AND ACTIVITIES FOR FISCAL YEAR 1998

Ecology's major objective will be to develop effective environmental excellence agreements. It is important to realize that for the regulated community, this is a voluntary program. Its success depends on their proposals for environmental excellence agreements. Therefore a secondary objective is to continue to help the regulated community and others understand the opportunities and challenges created by this law.

To accomplish this objective Ecology will do the following:

Communicate with a wide range of stakeholders, including representation from public interest groups, EPA, labor representatives, municipalities, tribes, the regulated community and concerned citizens. Provide education and outreach presentations and materials for interested parties.

Develop a listserve to provide an electronic method for interested parties to "discuss" issues related to this program. Maintain a web site for electronic access to information related to environmental excellence program agreements.

Facilitate the development of at least one agreement.

EPA SUPPORT OF ECOLOGY'S ENVIRONMENTAL EXCELLENCE AGREEMENTS PROGRAM

Provide information on the lessons learned from the national environmental excellence program.
Provide a timely review and response to any proposed state projects. EPA's criterion of "superior environmental performance" as it is defined in the Federal XL program will be used in evaluating proposed agreements. EPA's criterion of superior environmental performance was clarified in its April 23, 1997 Federal Register notice.
Help the state provide public access to information related to state projects.

COMPLIANCE ASSISTANCE

STRATEGY DEVELOPMENT

The Department of Ecology is participating with EPA Region 10 and other Region 10 States in the development of a regional compliance assistance strategy. Tentatively, the initial DRAFT of the Compliance Assistance Strategy will be completed during 1998. Its completion will provide greater understanding of alternative methods of enforcement and will clear up many misconceptions concerning the role of alternative enforcement.

Each Program will establish compliance assistance initiatives. The details and commitments of these initiatives will be described in individual program compliance assistance strategies. Reporting of compliance assistance results will take place during individual program mid-and year-end reviews.

Additional information on Ecology programs aimed at compliance assistance is included in Section Three Compliance, II ALTERNATIVE METHODS TO ACHIEVE COMPLIANCE.

SECTION THREE - Compliance

The Department of Ecology, EPA and the other States in the Region have endorsed a set of Compliance Assurance Principals. These principals are intended to guide the states and EPA to ensure to the extent possible that enforcement is consistent both within media and geographic location. In addition, Ecology and EPA Programs have negotiated and signed Compliance Assurance Agreements, which describe how compliance activities will be conducted and reported in national data systems. Copies of the individual Program Compliance Assurance Agreements are available and can be obtained from Program representatives.

COMPLIANCE ASSURANCE PRINCIPALS

BACKGROUND

As part of the Performance Partnership process, EPA Region 10 and the environmental agencies of Alaska, Idaho, Oregon and Washington (State Agencies) established in February, March and April 1997 a set of principles to guide our relationships and actions in compliance and enforcement matters. Copies of the Compliance Principals are available from either Ecology or EPA.
There are four major categories of principles.

Collaborative Planning Process

EPA and the State Agencies will coordinate their respective enforcement and compliance assurance planning efforts to complement the PPA process as appropriate. Planning should cover goals; priorities; resources; key activities and performance measures; and respective roles and responsibilities of the agencies. EPA and the States will engage in collaborative planning on a regular basis. The overarching principles for these interactions will include:

- Managing for environmental results and high compliance rates.
- Clearly articulating the enforcement and compliance assurance program mix and philosophy.
- Each party bringing to the planning effort its entire body of compliance work, and committing to: 1) exploring the full range of regulatory tools, including compliance assistance approaches, and 2) addressing both large and small sources as part of its implementation efforts.
- Establishing up-front agreements on roles, goals, priorities, and measures.
- Adhering to the principle of "No Surprises".
- Maximizing the effectiveness of agency resources, reflecting respective agency capabilities, and avoiding duplication of efforts.
- Eliminating conflicting messages.
- Including discussions of disinvestments and resource adjustments in any planning for new initiatives that arise during the course of the year.
- Complying with existing interagency agreements, such as Compliance Assurance Agreements and the Ecology /EPA agreement on multimedia inspections.

EPA/state agency roles
Oversight Inspections

Oversight inspections will focus on evaluating a State Agency's inspection and compliance assurance program. Evaluating the State Agency inspector and his/her compliance determination during the inspection and subsequent follow-up process will do this. Part of this evaluation will include an off-site debriefing with the State Agency

inspector to discuss EPA's initial compliance findings. Care will be taken to ensure that the facility does not receive conflicting messages from EPA and the State Agency. If there is a disagreement on compliance issues, the dispute resolution process of these principles should be used. If the State Agency does not address in a timely and appropriate manner compliance issues raised by EPA, then the State Agency understands that EPA may overfile. In this situation EPA's action should be timely and appropriate.

EPA Roles

In Delegated Programs. EPA's principal role in delegated programs should be as "back-up" for the State Agency program. However, EPA should initiate an enforcement action under the following circumstances:

At a State Agency's request,
If a State Agency action is determined to be not adequate (In this situation, EPA will adhere to the "no surprises" principle).
As part of its agreed on role established in the annual planning process.

In non-delegated programs under the federal Clean Air Act, Clean Water Act or Resource Conservation and Recovery Act authorities. Although a State Agency may implement a program under analogous state authorities, here EPA often is the lead on compliance and enforcement issues. However, EPA will also follow a policy of "No Surprises" in carrying out its responsibilities in these situations, and in the three categories of activities described below, unless inconsistent with Tribal sovereignty rights.

Role on Tribal Lands. EPA has a duty to address environmental issues on reservations, stemming from treaties the US government has signed with the Tribes. EPA and Tribal governments are usually the only regulators on reservations, and no enforcement programs have yet been delegated to any Region 10 Tribes. Consequently, EPA has enforcement responsibilities with regard to all enforcement programs on reservations.

Role at Federal Facilities. EPA should be prepared take a lead role in dealing with Federal Facilities where requested by a State Agency program. Here State Agencies should play a significant role in identifying areas where a stronger enforcement presence is needed.

Coordination of civil and criminal programs. EPA and the State Agency will operate in a cooperative manner to define the criminal program role in the overall compliance and enforcement process.

State Agency Role

In delegated programs, the State Agency role is as the "front line" agency in program implementation. This includes helping to define EPA's role in the regulated community for a given program. Exceptions to this include those situations where regional or national initiatives warrant an EPA lead. These would be exceptional situations, such as the implementation of new federal regulations, or those instances where an individual state program does not have a comparable deterrence capability, e.g., against a single entity with facilities in more than one state, or to ensure a level playing field by recovering economic benefit and commensurate penalties from entities involved in a national market. Such exceptions would only occur after full and open consultation with the State Agency concerning the appropriate roles of the respective agencies in taking the action.

EPA/State Agency Joint Roles

Capacity sharing. In some instances EPA can help a State Agency improve its performance by providing technical assistance in a variety of forms. However, capacity sharing is a two way street. There are many areas where State

Agencies have knowledge and skills that EPA staff would benefit from. EPA and the State Agencies should actively seek opportunities in both these situations.

These general principles should be reflected in PPA discussions, and in Compliance Assurance Agreements.

Performance measurement / oversight

EPA will use differential oversight and a range of responses to assess State Agency performance, including "system level" reviews.

The primary focus of oversight should be on a whole program or "holistic" basis. Oversight inspections at individual facilities are a necessary part of developing this "holistic" approach.

EPA will limit its review of State Agency decisions to a standard of whether the delegated entities made factual errors in technical calculations, or errors in interpretations of federal law, regulations or guidelines.

Information sharing and data responsibilities

It is important that both state and EPA programs are committed to using at a minimum the existing (national) compliance data systems. EPA and the State Agencies are working to make these program specific systems more user friendly, and better able to link data from the various media. However, along with that effort must be a commitment to using the systems we now have to their full advantage. These systems include AFS, PCS and RCRIS.

Ensuring Sufficient Information to Assess the Adequacy of Program Implementation

In addition to maintaining data systems, program offices should work with their State Agency counterparts to clarify the kinds of information and records that are critical for making these determinations. This work also needs to be integrated with current developments in how we define and measure success.

In order to ensure that staff in both EPA and State Agency programs are fully aware of reporting priorities, improved and consistent definitions of common terms are needed. EPA and the State Agencies should collaboratively identify and clarify the most critical data elements.

These compliance assurance principles reflect the current positions of the State Agencies and EPA Region 10. As appropriate they can be used to assist in the implementation of existing agreements. EPA Region 10 and the State Agencies will adhere to these principles when developing any future state/EPA agreements addressing enforcement and compliance matters.

ALTERNATIVE METHODS TO ACHIEVE COMPLIANCE

The Department of Ecology is involved in a number of activities intended to assure compliance with applicable environmental laws and regulations. These efforts include traditional enforcement and compliance activities such as inspections, fines and other types of penalties. In addition, alternative inspection, compliance assistance initiatives, educational programs, public awareness and notification and pollution prevention are a part of the enforcement program. Each program uses a number of different approaches to achieve compliance. These alternative methods to achieve compliance and their overall effect at reaching desired environmental outcomes will be discussed during mid-year and year-end reviews with EPA.

Over a span of several years the Department of Ecology has pioneered the use of "Sweeps" or media specific campaigns to contact specific types of businesses. The focus is on identifying potential and real problems, which may, if not corrected, result in environmental violations and/or formal enforcement. These "Sweeps" target specific types of business and through visits, inspections and discussions identify areas of potential environmental risk. In the past "Sweeps" have been conducted looking at auto repair, photo processing, boat yards and other businesses.

As part of a Pollution Prevention Pilot Project a Team made up of several Ecology Programs will construct waste management plans for participating hospitals. This pilot will be reviewed by Ecology management and considered for application statewide. Other examples of this type of effort include a project works with owners of large underground storage tanks to explain the requirements and process to get a compliance tag for their tanks and; Audits of Tank Barge Company spill prevention plans. As a result of the audits, companies provide documentation and follow-up demonstrate full compliance with Washington's Best Achievable Protection (BAP) standards.

Agency wide technical assistance and other contacts evidence the extent to which Ecology is using alternative means to achieve compliance with environmental laws and regulations. The numbers below are for the month of May 1998. The air, waste and water programs comprise the majority of these numbers.

Activity	**Number of Contacts**
Compliance Inspections	376
Technical Assistance Visits *Requested Per RCW 43.05 (HB1010)*	359
Technical Assistance Visits *Other*	681
Initial Investigation Site Visits	28
Workshops Sponsored	22
Sum of Workshop Audiences	786
Presentations Given to Business or Community Groups, etc.	83
Informal Consultations (letters, phone, face-to-face)	14,039

The Department of Ecology is very interested in establishing direct and causal effect relationships between traditional enforcement and alternative methods to achieve compliance. To this extent, Ecology will continue to utilize alternative enforcement methods and work to establish creditable links between these methods and established environmental outcomes. The Department of Ecology, Region X EPA and the other states in the region are currently negotiating a Compliance Assistance Strategy. This Strategy when completed will detail content of Compliance Assistance Programs, communication measures and reporting requirements.

PROGRAM EVALUATIONS

The Department of Ecology has led an effort involving several other states and EPA to establish a set of Principals by which state programs would be evaluated. The EPA agreed upon evaluation principals and the 4 states in Region 10 and are based upon and pursuant to, the Compliance Principals included above in item **I.** of this Section. The Department of Ecology and EPA have concurred on evaluations involving the Air Program and specific areas of the Water and Waste Program. Ecology and EPA are developing schedules for completing these evaluations consistent with agreed upon Evaluation Principals.

CORE PERFORMANCE MEASURES

The Environmental Protection Agency (EPA) and the states, through The Environmental Council of the States (ECOS), have been working together to develop a set of core performance measures. It is envisioned that EPA and all

the states can use the information to report environmental data on water quality and other media in a comprehensive and consistent manner within the capability of current data base systems. If so, the data can be compiled in existing national databases. The Department of Ecology, a participant in the ECOS endeavor, is fully supportive of this national effort.

The CORE Performance Measures are not new, yet when combined with the Associated Reporting Measures do represent changes to the way Ecology collects and reports progress and data. Data systems and information necessary to fully satisfy EPA requirements do not currently exist. In addition common format standards for data and reporting between Ecology and EPA programs do not exist. Region 10 of EPA and Ecology are working together to review existing databases, reports and reporting capabilities to meet this challenge.

The EPA and the states in a joint statement on August 20, 1997 approved CORE Performance Measures for FY 1998. The Department of Ecology endorses the continued use of these CORE Performance Measures applicable to Washington for FY 1999. For additional information or copies of the Core measures, Compliance Assurance Agreements, or Program Evaluation Principals please contact:

For Ecology: For EPA Region 10:

SECTION FOUR - Air Quality

DESCRIPTION

To work as partners with government agencies, Indian Tribes, affected parties and the public to prevent, reduce and control air emissions and improve the air quality and health of the citizens of Washington State.

GOALS

Attain air quality standards in air sheds that violate federal and/or state air quality standards.
Maintain air quality in air sheds that meet federal and/or state air quality standards.
Prevent unacceptable degradation of air quality in order to protect public health and welfare.
Improve service to the public and business community.

JOINT PRIORITIES-(EPA/Ecology/Local Air Authorities)

Begin to implement new Federal National Ambient Air Quality Standards (NAAQS)
Expand inter-governmental and Indian Tribe partnerships
Prepare attainment and maintenance State Implementation Plans (SIPs), and re-designate as appropriate
Update phase 1 of the visibility SIP
Begin to implement Air Toxics Strategy Plan
Ecology/Local Air Authorities continue to implement and improve the core activities such as:
Operating Permits
Vehicle Emission Check Program
Indoor and Outdoor Burning
Public Education
Air Monitoring
Data Collection
Pollution Prevention
Compliance Assurance Principles
Notice of Construction, New Source Review, Prevention of Significant Deterioration
Maintenance Plan Implementation
Business /Technical Assistance

ENVIRONMENTAL INDICATORS

Quantity of emissions reduced or prevented by point source strategies, motor vehicle strategies and area source strategies.
Reductions in air emissions attributed to permitting activities.
Total number of air pollution measurements each year that exceed the concentrations established by federal and state ambient air quality standards.
Total number of person exposure days each year to air pollution levels exceeding federal and state ambient standards.
Long term monitoring trends by pollutant and SIP monitoring location

Status of non-attainment areas
Number of designated nonattainment areas
Number of designated nonattainment areas that are in monitored attainment of the NAAQS
Number of areas which are re-designated from nonattainment to attainment otherwise declared in attainment (e.g. New NAAQS or PM10)

OBJECTIVES AND ACTIVITIES

Assumed within the listed Objectives and Activities are a set of "Core" or ongoing program activities that both Ecology and EPA commit to continue. Examples of these "Core" activities would include; maintenance and operation of the vehicle emissions program, air monitoring, and outreach and education. In addition, both EPA and the state will continue to work together to assess and refine the list of indicators as adequate measures of the state's air program success. Both agencies will address any emerging air quality issues in a proactive manner.

National Ambient Air Quality Standards (NAAQS) are being met in all areas of the state and all nonattainment areas have been re-designated to attainment by the year 2000. (goals 1, 2)
Ecology FTE: 67 EPA FTE: 2 Local Air Authorities: 20

Ecology, in partnership with Local Air Authorities, will:	**EPA Region 10 will:**
a) Submit a serious area attainment plan for Spokane and a maintenance plan to EPA by December 31, 1998 to secure redesignation to attainment.	a) Provide continuing feedback and technical assistance on attainment and maintenance plan development and process the plans no later than 6 months after receipt.
b) Formulate a TAP for the CO Maintenance Plan for Yakima by September 30, 1998, and develop a maintenance plan based upon the EPA-approved TAP.	b) Review, comment, and approve or disapprove the TAP in a reasonable time; provide continuing feedback and technical assistance on maintenance plan development; and process the state-submitted plan in a reasonable time.
c) Operate and evaluate the National Ambient Air Monitoring/State and Local Ambient Monitoring (NAMS/SLAM) network.	c) Approve or disapprove changes to and provide feedback on National Ambient Air Monitoring/State and Local Ambient Monitoring (NAMS/ SLAM) network. Participate on Ecology/local air authorities network advisory committee. Provide technical assistance as requested and respond to annual and biennial evaluations within 60 days of receipt.
d) Submit data into Aerometric Information Retrieval System (AIRS).	d) Provide assistance as needed.

e) Meet all federal NAMS/SLAM monitoring requirements of 40 CFR parts 53 & 58.	e) Provide technical assistance as requested.
f) Conduct data analysis and report trends during the yearly "Trends Briefing" and participate in mid-year reviews with EPA and LAAs.	f) Participate in mid-year reviews with Ecology and the local air authorities.
g) Continue to operate the Vehicle Emission Check Program.	g) Provide technical assistance as requested.
h) Undertake a comprehensive review of the Vehicle Emission Check Program to determine the most effective way of identifying the highest emitting vehicles and ensuring they operate cleanly.	h) Provide technical assistance as requested.
i) Deploy PM2.5 monitors as identified in the detailed 103 Grant Workplan.	i) EPA will review and comment on drafts of the 2.5 network description within thirty days of receipt. We will also review the final document within thirty days of receipt, and approve or disapprove by July 31, 1998. EPA will review and comment on drafts of the 2.5 103-grant workplan within ten days of receipt. We will also review and approve or disapprove the final document within ten days.
For all NAMS/SLAMS/SPMS continue to conduct and report on Annual Review of ambient network design and siting	j) EPA will review and comment on a draft of each report of the annual network review within sixty days. On a case by case basis we will endeavor to cut this time in half. We will review revised network review reports within thirty days.

Programs are in place to address existing and anticipated problems associated with violations of current and future NAAQS and other air quality guidelines by June 30, 1999. (goals 1,2)

Ecology FTE: 13.5 EPA FTE: 2 Local Air Authorities: 4

Ecology, in partnership with Local Air Authorities, will:	**EPA Region 10 will:**
a) In response to new Federal PM NAAQS, begin to develop inventory, modeling, and monitoring expertise.	a) Provide funding guidance and technical support.

b) Complete revisions to the Phase 1 Visibility SIP based on recommendations from the "Review of the Washington State Visibility Protection State Implementation Plan-Final Report". Following adoption of Regional Haze rule, prepare revisions to the SIP for regional haze program.	b) Participate on visibility work group and provide feedback on the Visibility SIP revisions. Provide guidance on Regional Haze rule implementation. Participate with Ecology in addressing Air Quality concerns in the Columbia Gorge.
c) Work with stakeholders and the agricultural community to reduce emissions from agriculture sources of air pollution.	c) EPA will place emphasis on working to decrease effects of agricultural burning in neighboring states.
d) Analyze data from CO saturation studies, in nonattainment areas of the state, to determine compliance with NAAQS and help verify CO monitoring needs.	d) Participate in a peer review. Comment on a continuous basis during the process.
e) Implement all approved Maintenance Plans in redesignated areas of Washington State and continues implementation of PM_{10} controls in areas where the pre-existing standard has been revoked.	e) Begin to develop federally enforceable implementation plans for Indian Country.
f) Certify that the state's 110 SIP is adequate to implement the new PM NAAQS and request revocation of the pre-existing PM_{10} NAAQS.	f) Revoke the pre-existing PM10 NAAQS in areas meeting requirements in a reasonable time and work with Ecology and Local Air Authorities to resolve issues in areas where there are impediments to revocation.
g) EPA Region 10 and Ecology AQP staff will work together to establish principles and criteria for a "contextual program review." This review will examine the full range of program activities and accomplishments, beyond enforcement, that contribute to Ecology's Air Quality Program. Ecology's AQP will act as a one-state pilot for this review, which will be initiated the summer of 98.	g) EPA Region 10 and Ecology AQP staff will work together to establish principles and criteria for a "contextual program review." This review will examine the full range of program activities and accomplishments, beyond enforcement, that contribute to Ecology's Air Quality Program. Ecology's AQP will act as a one-state pilot for this review, which will be initiated the summer of 98.

Regulated community achieves and maintains a high rate of compliance with air quality requirements by June 30, 1999. (goals 1,2,3)

Ecology FTE: 26.5 EPA FTE: 4.5 Local Air Authorities: 70.5

Ecology, in partnership with Local Air Authorities, will:	**EPA Region 10 will:**

a) Implement the Compliance Assurance Agreement and principles and revise as appropriate.	a) Implement the Compliance Assurance Agreement and principles and revise as appropriate.
b) Assure all required Air Operating Permit program elements are in place for final approval of the Washington State program.	b) Issue final approval of Operating Permit program for Washington state if all requirements are met.
c) Strive to issue 95% of the air operating permits by 10/1/98, and all the remainder by 12/31/98.	c) Provide feedback and technical assistance on individual permits.
d) Participate in bi-monthly significant violator's conference calls.	d) Conduct bi-monthly significant violator's conference calls.
e) Air Facility System (AFS) data updated. Track and maintain AIRS significant violators. Attend AIRS training.	e) Assist with AFS. Provide AIRS training and technical support.
f) Local air authorities and Ecology regions with local authority, submit quarterly, core grant activity information on enforcement, permitting, monitoring, public education, planning and technical/business assistance .	f) Provide feedback and technical assistance on information provided.
g) Implement Notice of Construction, Prevention of Significant Deterioration (PSD), and Part 60 regulations.	g) Provide technical assistance in PSD and Part 60. Respond to request for delegation of Part 60 within 90 days of Request.
Coordinate with EPA to determine the best way to develop toxics inventories and report semiannually, the minimum data elements required under 40 CFR part 63 as detailed in the Compliance Assurance Agreement.	h) Coordinate with Ecology to determine the best way to develop toxics inventories (especially in preparation for the residual risk for NESHAPs). Support Ecology in the development of a CY99 air toxics emission inventory.
Report semiannually, the information updates requested for MACTRAX. This information includes the following: delegation status number of initial notifications received number of compliance certifications received number of compliance extensions granted number of inspections (actual and projected for current fiscal year) number of sources not meeting emission requirements	Provide timely requests and supplemental information (such as current MACTRAX summary and EPA source lists) for semiannual updates of MACTRAX.

Develop an agreement with EPA and locals regarding Section 112(r) that identifies respective responsibilities.	j) Provide Section 112(r) assistance as requested by Ecology and local air authority.
k) Ecology and local air authorities, with assistance from EPA, will perform 2 performance evaluations on the Core grant program, per year, and provide a summary report.	k) Assist Ecology and LAAs in evaluation of core grant program.
l) Submit an updated delegation request for the NESHAPS program and subparts through Section 112(r) by 7/98.	l) Complete final delegation within 6 months of receiving Ecology's delegation request if all requirements are met. Complete delegation updates within 3 months of receipt.

m) Implement delegated NESHAPs and develop a training program for staff.	m) Provide funding and technical support for training and implementation.
n) Submit program certification to EPA.	n) Encourage adoption and support implementation of 112(d), 112(g) and 112(r).
Ecology and LAAs will report semiannually, alternative methods to achieve compliance with environmental laws. These methods would include compliance assistance initiatives, educational programs, and pollution prevention programs.	o) Provide assistance as requested.

Programs are in place that improves service to the public and the business community.

Ecology FTE: 15 EPA FTE: 2 Local Air Authorities: 15

Ecology, in partnership with Local Air Authorities, will:	**EPA Region 10 will:**
a) Implement the Chlorofluorocarbons (CFC) Memorandum of Understanding (MOU) as signed by Ecology and EPA.	a) Implement the CFC MOU as signed by Ecology and EPA
b) Implement the Asbestos MOU as signed by Ecology and EPA. Local Air Authorities will continue to implement asbestos strategy and input data into the National Asbestos Registry System/Alternative Control Technology data, quarterly.	b) Implement the Asbestos MOU as signed by Ecology and EPA. Maintain National tracking systems and provide technical assistance.
c) Educate citizens regarding their role in achieving clean air.	c) Provide technical assistance and funding to help educate public on clean air issues.
d) Continue to update Ecology and Local Air Authorities Air Quality home pages on the Internet with valuable air quality information, including real time monitoring data, SIP table of contents and Washington Administrative Codes.	d) Attempt to link or refer EPA Region 10 home page to Ecology and Local Air Authorities home pages.

SECTION FIVE - Hazardous Waste Management

DESCRIPTION

The Hazardous Waste Program is implemented pursuant to the federal Resource Conservation and Recovery Act (RCRA) and the state Dangerous Waste Regulations. The purpose of the program is to assure that generators and processors of hazardous waste manage the waste in a manner that minimizes the risk of releases of hazardous materials to air, water, and land. This is accomplished by assuring compliance with the hazardous waste regulations and by encouraging waste minimization practices. Work to be done by Ecology will be performed by the Hazardous Waste and Toxics Reduction Program (HWTR), The Industrial Section and the Nuclear Waste Program. Ecology will collect and track all information needed to adequately report on all indicators and performance measures. The Region 10 RCRA program in the Office of Waste and Chemicals Management (OWCM) will perform EPA work.

PROGRAM GOALS AND PRIORITIES

The EPA Region 10 RCRA Program and the Ecology HWTR Program will strive to achieve the following program goals and priorities in Washington State in FY'99.

We will strive to:

Minimize environmental threats caused by mismanagement of hazardous waste by implementing effective compliance assurance activities including fair and firm enforcement;

Continue to improve the Dangerous Waste Regulations and maintain an authorized program;

Work toward reducing the production of hazardous waste in the state to 50% of the 1990 level;

Accomplish safe, timely permitting, closure and corrective action; and

Improve access, internally and externally, to meaningful, quality information for use in accomplishing our work including collecting information to measure our success.

ENVIRONMENTAL AND PERFORMANCE INDICATORS

The following environmental and performance indicators will be used to determine the long-term success of the RCRA Program. The CORE performance measures developed and agreed to by ECOS and EPA are incorporated into these indicators. During FY'99 EPA and Ecology will assess the progress on these indicators using data available in the RCRIS data base, Biennial Reporting System, and the Toxics Release Inventory data base. This assessment will be done at the end of the year.

Pounds per year of hazardous waste generated per facility (sorted by SIC and ZIP code) from Biennial Reporting System (BRS). See goals 1 through 5.

Pounds per year of toxic chemicals released to air, land, and water as measured by the Toxics Release Inventory (TRI). See goals 1 through 5.

Number and percentage of sites subject to RCRA corrective actions that have (a) human exposures under control and (b) ground water contamination under control. Measured in RCRIS database. See goals 1, 2, 4 and 5.

Percent of high and medium priority facilities subject to RCRA corrective action where a final remedy or interim measure is in place for any portion of the facility. Measured in RCRIS database. See goals 1, 2, 4 and 5.

Percent of facilities that require either an operating or post closure permit where a final permit decision has been made. Measured in RCRIS database. See goals 1 through 5.

Percent incidence of "Environmental Threats" per inspection by calendar year. Measured in RCRIS database. See

goals 1 and 5.

ACTIVITIES TO BE PERFORMED BY ECOLOGY AND EPA

Ecology and EPA will conduct the following activities that will be reported in a mid-year and end-of-year report. These reports will include a narrative and tracking data and will be due January 31, 1999 and July 31, 1999. Ecology will agree to continue reporting in the National database (RCRIS etc.). Unless stated otherwise these activities will be completed by June 30, 1999. The level of effort section of each Ecology activity identifies the Ecology FTE funded by federal grant dollars and the Ecology FTE funded by state matching funds. The level of effort section for EPA identifies EPA resources devoted to work in Washington. Ecology's work plan for the HWTR program is incorporated as part of this agreement.

INFORMATION MANAGEMENT

Ecology will:
Input into the RCRIS data system all hazardous waste inspections, enforcement actions, return to compliance information, corrective action milestones, closure/post-closure milestones, permit milestones and any other data necessary to track indicators 3, 4, 5 & 6. Ecology will maintain a system to assure that each inspector, permit writer, and corrective action/closure lead will review the data for each facility they are responsible for on a monthly basis and submit revisions for data input. At no time should the data for any facility be more than two months behind. See goal 5 and indicators 3, 4, 5 & 6. See work plan section 6B. Level of effort in FTE: 1.1 (grant) 0.4 (match) Total 1.5

Collect and process annual reports. Information will be provided to EPA for the National Biennial Report System as agreed in the program MOA. Ecology will also maintain the hazardous waste notification program and input notification data into the RCRIS database. (This activity includes the maintenance of the HWIMSY database). See goal 1, 2, 3 & 5 and indicators 1 & 2. See work plan section 6A. Level of effort in FTE: 3.4 (grant) 1.2 (match) Total 4.6

As described in the compliance assistance strategy agreed to by EPA and Ecology, Ecology will provide EPA with existing information regarding technical/compliance assistance work that has been conducted and the results of those efforts. See goal 5 and indicators 1,2 & 6. Level of effort in FTE: < .1

EPA will assist in maintaining RCRIS and keeping data current. Level of effort in FTE: 0.2.

COMPLIANCE ASSURANCE

Ecology will:
Conduct statutorily mandated and state priority inspections including completing inspections of all TSD petroleum refineries in the federal Fy'98/FY'99 biennium. Data will be input into RCRIS and quality assured monthly. Should Ecology decide not to conduct a Federally mandated inspection they will immediately notify EPA in writing of this decision along with justification for this decision. See goals 1, 2, 3 & 5 and indicators 1, 2 & 6. See work plan section 1A. Level of effort in FTE: 3.5 (grant) 1.2 (match) Total 4.7

Address violations and compliance issues in a manner consistent with the Ecology Hazardous Waste and Toxics Reduction Program Compliance Assurance Policy and the Ecology/EPA Compliance Assurance Agreement (orders, NOC's, compliance letters, and penalties). Data including SNC's will be input into RCRIS and quality

assured monthly. See goals 1, 2 & 4 and indicators 1, 2, 4 & 6. See work plan section 5. Level of effort in FTE: 1.6 (grant) 0.4 (match) Total 2.0

EPA will coordinate with Ecology on compliance issues and will perform the hazardous waste portion of multi-media inspections unless otherwise agreed to by Ecology and will implement compliance activities in Indian Country in cooperation with the various tribal governments.
Level of effort in FTE: 0.91.

TECHNICAL ASSISTANCE

Ecology will conduct technical assistance for compliance, waste minimization and pollution prevention through site visits, answering phone calls, outreach publications and workshops. Technical assistance work, including effectiveness (e. g. compliance rates and reductions in waste generation), will be tracked for inclusion in the mid-year and end of year reports. See goals 1, 3 & 5 and indicators 1, 2 & 6. See work plan sections 1B, 1C, 1F, 1J, and 1K. Level of effort in FTE: 4.6 (grant) 1.5 (match) Total 6.1

EPA will provide technical assistance to Ecology including work at Hanford, Occidental Chemical, and Kaiser Trentwood.
Level of effort in FTE: 0.45.

CLOSURE AND CORRECTIVE ACTION

Ecology will invest the designated level of effort in making progress on completing closure of regulated units and conducting corrective action at SWMUs. Site specific priorities and expectations for this work will be negotiated with EPA and revised throughout the year as situations change. These negotiations will be conducted through sites meetings. The meetings will be documented and staff from both agencies will sign off on agreements. Data including RCRIS measures CA725 and CA750 will be input into RCRIS and quality assured monthly. See goals 2, 4 & 5 and indicators 3, 4 & 5. See work plan section 4A, 4B. Level of effort in FTE: 6.0 (grant) 2.0 (match) Total 8.0.

EPA will conduct corrective action and closure work at Northwest Enviroservices, Kalama Chemical, Rhone Poulenc, Northwest Petrochemical Boeing Plant II and Phillip Georgetown. EPA will terminate existing 3008h corrective action orders at Pier 91 and Kalama. Level of effort in FTE: 1.3.

PERMITTING

Ecology will invest the designated level of effort in making progress on issuing hazardous waste permits. Site specific priorities and expectations will be negotiated with EPA and revised throughout the year as situations change. These negotiations will be conducted through sites meetings and facility specific permit discussions. Agreements reached in these negotiations will be documented and signed off on by staff from both agencies. Data for milestones achieved will be input into RCRIS and quality assured monthly. See goals 4 & 5 and indicators 1, 4, 5 & 6. See work plan section 4B 4F & 4G. Level of effort in FTE: 4.5 (grant) 1.4 (match) Total 5.9.

EPA will conduct permitting program coordination, and work on Reichhold, and ATG.
Level of effort in FTE: 0.7.

AUTHORIZATION

Ecology will maintain an authorized program in compliance with federal requirements found at 40 C.F.R. Part 271.21. See goals 1 through 5 and indicators 1 through 6. See work plan section 2. Level of effort in FTE: 1.8 (grant) 0.4 (match) Total 2.2

EPA will work with Ecology to develop, review and process the next authorization package. Level of effort in FTE: 0.4.

PROGRAM EVALUATION

EPA will conduct a program review that will focus on enforcement/compliance work in Ecology's Eastern, Central, and Kennewick offices as well as the implementation of permits once they are issued. Level of effort in FTE: 0.2 EPA; 0.2 Ecology.

EPA COORDINATION AND CONTRACTS

PROGRAM COORDINATION

This is general program coordination done by the EPA state coordinator in the EPA regional office and the RCRA coordinator position in the EPA operations office. This work includes joint inspections, oversite work, grant administration, planning, training and assuring open communication between Ecology and EPA. Level of effort in FTE: 0.85.

CONTRACT WORK

This includes contract work EPA funds to assist in implementing the waste program. Included in this work are permit reviews and technical assistance. Level of effort in FTE: 0.5

The total state FTE covered by this agreement is 37.4 (28.1 funded by the grant and 9.3 by state match). For the purpose of this agreement 1 FTE is equal to $62,357.00. The total federal resource involved in implementing the program in Washington is 5.5 FTE.

SECTION SIX - Water Programs

GOALS AND PRIORITIES

Both EPA and Ecology have agreed on a common set of environmental goals and priorities to cooperatively pursue under this agreement. These goals and priorities set the general direction of the agencies' efforts over the coming year and form the basis for the performance measurements and specific activities of each agency as described below. This part of the agreement covers water quality, wetlands, biosolids, sediments, and environmental indicators. As such, it involves the following parts of the two organizations:

EPA - Region 10
Office of Water
Office of Ecosystems and Communities
Washington Operations Office

Ecology
Water Quality Program (WQP)
Shorelands and Environmental Assistance (SEA) Program
Solid Waste and Financial Assistance Program (SWFAP)
Environmental Investigations and Laboratory Services (EILS)

The top three water goals and priorities for state fiscal year 1999 (SFY 99) are:

- Participate in the development and implementation of a new Ecology comprehensive watershed approach to water management, and increase EPA and other federal agency involvement.
- Implement the strategy to complete Total Maximum Daily Loads (TMDLs) for waters on the federal Clean Water Act (CWA) Section 303(d) impaired waters list for 1996 consistent with available resources.
- Continue to enhance the state's Nonpoint Source Program through planning, coordination, technical assistance, and increased voluntary compliance at the local level.

Other shared goals and priorities for SFY 99 are:

- Target improvements to the state's surface water quality standards that will enhance the effective and efficient protection of beneficial uses, threatened or endangered species, and critical habitats.
- Promote the protection of ground water resources through coordinated state and federal technical assistance and outreach to local jurisdictions.
- Promote coordinated local, state, interstate, federal, and international pollution prevention and abatement efforts in special geographic areas, including implementation of the Mid-Columbia Basin Memorandum of Understanding (MOU).
- Maintain an effective compliance assurance program targeted to environmental results by conducting inspections of high priority facilities, providing both technical and financial assistance, and taking both formal and informal enforcement action when warranted.
- Develop AFO and/or CAFO (confined animal feeding operation) strategy.

MEASURING PROGRESS

ENVIRONMENTAL INDICATORS

Ecology will refine and report on the water-related environmental indicators for Washington State developed during SFY 98. Over the last year, Ecology selected and developed a set of indicators. During the SFY99 PPA, the indicators (fecal coliform in surface water and nitrate in public drinking water) and a water quality index (with four

parameters) will be refined, and the data will be presented.

PERFORMANCE MEASURES

The core performance measures (CPM) and associated reporting requirements (ARR) are being refined by ECOS and EPA. Since they are still under development, the water core measures will be listed in their entirety in their present form in this agreement. Ecology's and EPA's abilities to report the data in the manner requested will be described under each measure. It is hoped that through the process of ongoing national deliberations and EPA and the states agreeing on those measures appropriate for each state that a consistent and meaningful set of measures will be developed.

Ecology and EPA Region 10 are actively discussing the core measures and continue to develop a better understanding of them. Ecology and EPA Region 10 will continue to work together to clarify and refine data and reporting to meet national objectives

1. Core Program Measures and Associated Reporting Requirements for Clean Water & Drinking Water State Revolving Fund Program

The protection of drinking water is a shared responsibility, generally between the Washington State departments of Health and Ecology. Core measures and reporting requirements that are the responsibility of the Department of Health (DOH) will be noted in this Ecology – EPA agreement.

2. Core Program Measures and Associated Reporting Requirements for Source Water Protection and Underground Injection Control

DOH has primary responsibility, but Ecology can provide information for the associated reporting requirements that are described below.

a. CPM: # and % of community water systems (and population served) that will be implementing programs to protect their source water.

This is a DOH responsibility.

b. ARR: # of Class IV/V wells (by well type) brought under specific control through permits and closures. Provide narrative of other actions taken to identify Class V wells and to address potential endangerment from Class V wells. (Reported by the States and the Region together.)

Class IV wells (underground injection of radioactive, hazardous or waste materials above or into NSDW) are prohibited in Washington State, as they are nationwide. The state will continue to provide this information on the 7520 report forms.

c. ARR: # of abandoned or other wells plugged as a direct action by the UIC program or indirectly by another program working in partnership with UIC to protect USDWs. (Reported by the States and the Region together.)

The state will continue to provide this information on the 7520 report forms.

3. Core Program Measures and Associated Reporting Requirements for Community Drinking Water System

a. CPM: % of assessed rivers, streams, and reservoirs designated for drinking water use that fully support use as a drinking water supply.

One of the uses of Class A and AA waters is for domestic water supply. However, there are no criteria for raw domestic water. Ecology will continue to provide this assessment information in the 305b report using the Class A and AA criteria.

b. ARR: % of assessed rivers and lakes in the state containing fish that the state, in order to protect public health, has determined should not be eaten, or should be eaten in only limited quantities.

This relates to fish consumption advisories that are provided by the DOH in Washington. Ecology will continue to provide assessment information on public health use status in the 305b report using the national

toxics rule criteria.

4. Core Program Measures and Associated Reporting Requirements for Watershed Restoration and Protection

a. CPM: % of assessed water bodies that protect public health and the environment by supporting a) fish and shellfish consumption, b) safe recreation, and c) healthy aquatic life use designations. [Applicable to sub-objectives 1f and 1g as well.]
The DOH provides information on public health aspects of fish and shellfish consumption. The Department of Ecology provides information on health and environmental issues related to safe recreation and healthy aquatic life use designations in its biennial water quality assessment report done under Section 305b of the federal Clean Water Act (the CWA 305b report). Ecology will continue to incorporate information from DOH's shellfish classification inventory in the 305b report.

b. CPM: % of assessed rivers and estuaries with healthy aquatic communities
This information is readily available in Ecology's CWA 305b reports.

c. CPM: % change of selected substances found in surface waters.
Ecology has an ambient monitoring program for water quality parameters and collects and analyzes water quality at 62 core monitoring stations across the state monthly and has three years of data using all of these stations. Ecology also conducts intensive surveys where water quality problems are investigated. EPA and Ecology will actively work together to define the parameters and convey the requested information.

d. CPM: List the state priority waters/watersheds that are impaired or in need of special protection that have been identified (e.g., through a 303(d) listing or Unified Watershed Assessment or through a basin planning and management process); and, for those waters indicate whether or not: (1) action strategies have been developed that include actions needed to attain Water Quality Standards; and (2) measurable environmental improvements have occurred in the last two years (phase in 1 and 2 in FY2000).
This core performance measure, related to the 303d list of impaired water bodies, is reported to EPA. The requirements of sub-part 1 will begin to be addressed through implementation of the TMDL settlement agreement and the agreed upon schedule of 15 years for conducting TMDLs for waters on the 1996 303d list. (See Activity III.A.1. Below.) The recently developed water quality index and environmental indicators for water quality will satisfy the requirements of sub-part 2.

e. ARR: Status (e.g., drafted, completed, date of expected completion) of developing a unified watershed assessment that identifies aquatic resources in greatest need of restoration or prevention activities.
Over the past five years, Ecology prepared water quality needs assessments for each of the 23 water quality management areas covering the entire state. Ecology is actively pursuing budget enhancements to allow more comprehensive watershed assessments in the future.

f. ARR: Describe the status of compliance with Section 303(d) list submittal requirements and completing necessary TMDLs, including any requirements from court orders, consent decrees, or settlement agreements.
Ecology will provide this information annually.

5. Core Program Measures and Associated Reporting Requirements for other NPDES program elements (e.g., Point Source Pollution)

a. CPM: % of watersheds with toxic pollutant loadings at or less than permitted limits.
Ecology will work with EPA to achieve clarification on what is being requested in this measure and how that information can be provided

b. CPM: % of facilities implementing wet weather control measures. Where available, report the annual pollutant loadings of key parameters associated with wet weather sources.
Clarification will be sought on this measure. The state does not currently collect this information.

c. ARR: # and % of facilities: (i) which are covered by a current NPDES permit, (ii) with expired permits, (iii) which have applied for a permit but have not yet been issued a permit, and (iv) which are under administrative or judicial appeal.
EPA will clarify the base upon which percentages are derived and the definitions of key terms. The state can then provide information from its existing permit database for numbers i, ii, and iii. EPA and Ecology will agree on a methodology for determining the percentages.

d. ARR: # of (a) non-storm water general permits issued and (b) the number of facilities covered.
This information is available, and Ecology will report it.

e. ARR: # and % of facilities with wet weather discharges (CSOs (combined sewer overflows), MS4s (municipal separate storm sewer systems), SSOs (storm sewer overflows), industrial stormwater, and stormwater sources designated under 402(p)(6)): (i) which are covered by a current permit, (ii) with expired permits, (iii) which have applied for a permit but have not yet been issued a permit, and (iv) which are under administrative or judicial appeal.
The state does not track this data currently and will work with EPA to assess what would be required to provide it.

f. ARR: # and % of pretreatment facilities audited. Identify the percentage of audits that are done in accordance with a watershed-permitting plan.
The Department of Ecology is working with EPA to further define this reporting requirement.

g. ARR: List the % of POTWs that are beneficially reusing all or a part of their biosolids, and, where data exists, the % of biosolids generated that are beneficially used.
The state does not currently collect this information. This information may be available as the state's biosolids program develops. The state intends to seek delegation of the biosolids program.

h. ARR: List the actions taken by a State to reduce NPDES compliance monitoring for facilities consistent with the OW/OECA Interim Guidance signed in April 1996, and estimate reductions achieved.
Although the state does not currently track the requested information, it has a policy on the reduction of monitoring requirements for facilities achieving exceptional performance. Ecology will work with EPA to develop a response.

i. ARR: List the status of all authorized NPDES programs regarding adoption of applicable regulations and legal requirements.
The state will provide an explanation annually on any state law changes affecting NPDES delegation.

j. ARR: Compare quarterly outlays to OMB planning targets for the Clean Water State Revolving Fund (CW SRF) and Drinking Water State Revolving Fund (DW SRF). [Applicable to sub-objective 1a as well.]
The DW SRF is a shared responsibility between the state DOH and CTED (Department of Community, Trade and Economic Development). The CW SRF is the responsibility of Ecology. EPA and Ecology will update the 1990 SRF operating agreement that describes how the CW SRF is administered in Washington to include a mechanism for this reporting before the state submits its IUP for FY 2000.

k. ARR: Submit information required for the SRF information system for the CW-SRF and, when

established, the DW-SRF program. (The SRF information system includes information on nonpoint source and estuary projects funded by the SRF; SRF projects that initiate operations; and "pace of the program" measures for loan issuance, pace of construction, and use of repayments.) [Applicable to sub-objective 1a as well.]

Ecology will work with EPA on CW-SRF reporting requirements during the update of the operating agreement as described in sub-part h. above.

6. Core Program Measures and Associated Reporting Requirements for Nonpoint Source Program.

a. CPM: Identify which of the nine key program elements of an effective nonpoint source program as outlined in the national Nonpoint Source Program and Grants Guidance for FY 1997 and Future Years jointly transmitted by EPA and ASIWPCA have been incorporated into the State Section 319 program.

Ecology will do this work as part of the nonpoint source pollution control plan being done under Section 319 of the federal Clean Water Act (the 319 nonpoint plan).

7. Activities to be undertaken by both Ecology and EPA

Ecology and EPA Region 10 agree to perform the following activities at the approximate specified levels of effort and with the identified deliverables during state fiscal year 1999. Note that the staffing levels in FTEs (full time equivalents) are estimates based on anticipated budgets and are subject to change throughout the year.

WATERSHED APPROACH, WATER QUALITY STANDARDS, AND NONPOINT SOURCE POLLUTION CONTROL

1. Roles & Responsibilities for 303(d) and TMDL Activities

Ecology and EPA agree to implement the settlement agreement consistent with available resources.

Ecology will:

Complete total maximum daily loads (TMDLs) and implement them in accordance with the agreed-upon commitments for the first year of the 15-year schedule.

a. Assist in determining locations suitable for TMDL development by EPA

EPA will:

Participate in defining its expectations for 303 (d) lists and TMDLs as specifically as practicable and prepare more TMDLs in two watersheds by November 1998; and provide support to Ecology in executing the agreement, particularly in providing liaison with other federal agencies.

Work with the United States Fish and Wildlife Service (USF&WS), National Marine Fisheries Service (NMFS), and Ecology to integrate federal Clean Water Act (CWA) and Endangered Species Act (ESA) requirements.

EPA and Ecology will:

Work together in responding to legislative inquiries and the TMDL settlement and general TMDL issues.

FTEs: 4.0 Federal Funded 5.5 State Funded 9.5 Total

FTEs: EPA 1.75

2. Coordination of Cross-Cutting Ground Water Issues and Activities

Ecology and EPA agree to utilize the Inter-agency Ground Water Committee (IGWC) to coordinate crosscutting ground water issues and activities. This includes the Comprehensive State Ground Water Protection Plan (CSGWPP), ground water monitoring and data management, State Pesticide Management Plan, Source Water Assessment Program, and the Mid-Columbia Basin memorandum of understanding (MOU).

FTEs: EPA 1.0

Ecology will:

Continue to integrate ground water protection activities into the watershed approach, including development of the Geographic Information System (GIS) data layers and susceptibility modeling analysis report (for aquifer vulnerability) for the Cedar-Green and Spokane watersheds by June 1999. Continue the existing Underground Injection Control (UIC) program and related 7520 report submittals, and development and implementation of a technical assistance and outreach strategy for the UIC program by September 1998, including preliminary guidance on the relationship of stormwater disposal and UIC wells. Using new federal funding, Ecology will be able to continue working in the Columbia Basin Ground Water Management Area (GWMA).

FTEs: 4.5 Federal Funded 1.0 State Funded 5.5 Total

3. Roles & Responsibilities for Coordination of Activities to Implement the Watershed Approach

EPA and Ecology will:

Work cooperatively with tribal and other governments to identify the roles, responsibilities, and processes necessary to ensure adequate coordination and involvement in the adoption of water quality standards. Assess delegation of permit authority (including phase I municipal stormwater requirements, with the exception of Tribes, to whom this delegation is not allowed); and implementation of the watershed approach.

FTEs: 6.0 Federal Funded 5.3 State Funded 11.3 Total

FTEs: EPA 0.35

4. Development of Partnerships and Consolidation of Environmental Efforts in the Watersheds

Ecology and EPA will use the scoping process and the watershed approach to develop strong working partnerships and collaboration with appropriate state, interstate, Tribal, regional, Federal and local entities in the watersheds and to consolidate and coordinate priorities, funding sources and environmental efforts in the watersheds.

Ecology will:

Continue to build opportunities to integrate, coordinate, and focus base program delivery through the watershed approach. Specifically, Ecology will:

Conduct scoping or watershed analyses in accordance with Ecology's comprehensive watershed management approach being developed by the department's water programs under legislation passed during the 1998 session and found in ESHB 2514, watershed management.

Continue implementation of other activities elsewhere in the state in accordance with the new comprehensive watershed approach and water quality priorities.

Continue to build strong partnerships with other agencies, tribes, and local governments.

Coordinate priorities, funding sources and environmental efforts in watersheds.

Continue to foster government-to-government processes to implement 303(d) related activities.

FTEs: 2.0 Federal Funded 1.85 State Funded 3.85 Total

EPA will:

Participate in the watershed approach. Specifically, EPA will:

Prepare briefing papers for the scoping efforts in watersheds identified by the new 2514 comprehensive watershed process.

Attend Ecology's scoping workshops for the above watersheds, when scheduled.

Review resulting priority issues and actions identified during the watershed process and identify follow-up activities in coordination with Ecology.

Coordinate the participation of federal agencies and tribes in the watershed process.

Provide resources and technical assistance as able in response to Ecology's requests.
FTEs: EPA 0.35

5. Improve Effectiveness and Coordination of Nonpoint Source Controls

Ecology and EPA will pursue opportunities for improving the effectiveness and coordination of nonpoint source controls.

Ecology will:

Complete the CWA Section 319 Nonpoint Source (NPS) Plan by June 1999; per January 27, 1998 memo from Ecology to EPA, Ecology will move forward on the updated schedule.
Develop a plan involving a wide spectrum of interest groups that is widely supported;
Incorporate the 9 key elements required for enhanced benefit status;
Incorporate the Coastal Zone Act Reauthorization Amendments (CZARA) Section 6217 findings;
Meet with EPA quarterly to assure timely progress on developing the state's nonpoint plan.
Report to EPA on the state / tribal partnerships, especially addressing the tribal nonpoint priorities.
Integrate the Clean Water Action Plan into the state's Nonpoint Plan as applicable.
FTEs: 6.0 Federal Funded 2.5 State Funded 8.5 Total

EPA will:

Participate in the development, complete review, and issue findings on Washington's 319 plan within two months of submittal by Ecology.
FTEs EPA 0.05

6. Timber-Fish-Wildlife (TFW)

Ecology will:

Continue development of a forest module with Timber-Fish-Wildlife (TFW) designed to address Clean Water Act and Endangered Species Act requirements. Review rules, watershed analysis, and other forest management programs and approaches.
FTEs: 3.0 Federal Funded 2.5 State Funded 5.5 Total

7. Dairy Operations Pollution Reduction

Ecology will:

Work cooperatively with other appropriate agencies and organizations to build the infrastructure and partnerships to reduce pollution from dairy operations statewide. This includes implementing SSB 6161 and continuing to implement the watershed approach to dairy waste management by targeting the Sumas and other sub-drainage's within the Nooksack basin, and the Snohomish and Chehalis River drainages.
FTEs: 1.0 Federal Funded 6.5 State Funded 7.5 Total

EPA will:

Continue implementation of Region 10 Confined Animal Feeding Operation (CAFO) compliance initiative in Washington until state resources and legislation are sufficient to allow Ecology to adequately address animal waste-caused water quality problems. Work with Ecology on CAFO implementation strategy by September 1998. EPA and Ecology will continue to communicate on these activities.

Water Quality Standards

1. Anti-Degradation Criteria

Ecology will:

Prepare phase II revisions (anti-degradation and use-based criteria) for a second round of public workshops to be held in the fall of 1998. Ecology will also begin the public scoping and prioritization process for the next round of potential standards revisions by the spring of 1999.

FTEs: 2.0 Federal Funded 0.65 State Funded 2.65 Total

EPA will:

Coordinate review and comment on proposed changes to the water quality standards by federal resource agencies under ESA consultation early in standards revision process. EPA will work with Ecology to identify dates by which such input is required in order to avoid delays in the state's standards development processes.

FTEs EPA 0.25

2. Water Quality 305b Assessment Data

Ecology submitted the Clean Water Act, Section 305(b) water quality assessment data in the fall of 1997, and another report is not due for approximately two years.

On-going data collection and assessment will continue during this fiscal year in preparation for the next report.

FTEs: 5.0 Federal Funded 2.0 State Funded 7.0 Total

3. Puget Sound Plan Implementation

Ecology will:

Continue providing technical assistance and funding to implement programs in Puget Sound including:

a. Prepare annual technical reports for Ecology's components of Puget Sound Ambient Monitoring Program (PSAMP):

Both EPA and Ecology will:

Participate in the Puget Sound/Georgia Basin Task Force with EPA and others;

Coordinate Puget Sound Water Quality Management Plan priorities with other Ecology activities;

Convene an interagency group to develop options for measuring / evaluating loadings of toxic and conventional pollutants to Puget Sound or parts of Puget Sound.

FTEs: 11.0 Federal Funded 3.2 State Funded 14.2 Total

4. Columbia River Implementation

Ecology will:

Continue providing technical assistance and funding to implement programs in the Columbia River including:

Participation on the Policy and Management Committee of the Lower Columbia River National Estuary Program (NEP);

Working toward attainment of water quality standards on the Columbia River and Snake River main stem.

Continued support of efforts in the Columbia Basin ground water management area (GWMA).

FTEs: 1.25 Federal Funded 1.25 State Funded 2.5 Total

EPA will:

Continue providing technical assistance and funding to implement programs in Columbia River including:

Participation on the Policy and Management Committee of the Lower Columbia River NEP;

Working toward attainment of water quality standards on the Columbia River and Snake River main stem.

FTEs: EPA 3.0

5. Columbia Basin Memorandum of Agreement & Technical Assistance

EPA will:

Continue to support the Columbia Basin Memorandum of Agreement (MOA), including seeking the type and level of federal support available for the Columbia Basin GWMA.
FTEs EPA 0.10

NPDES, PRETREATMENT, AND BIOSOLIDS

1. NPDES (national pollutant discharge elimination system) implementation

Ecology and EPA will:

Implement an effective NPDES program under the delegation agreement (Memorandum of Understanding) and the NPDES Compliance Assurance Agreement (CAA) as agreed to by both agencies. Core NPDES program elements include permitting, compliance assurance, enforcement, technical assistance, inspections, monitoring, pretreatment, biosolids, stormwater, public involvement, pollution prevention, and developing and maintaining systems and procedures for efficient and consistent implementation.

EPA will:

Continue to participate in Water Quality Program management meetings when topics are relevant to NPDES program implementation. EPA will share with Ecology relevant information on NPDES implementation and water quality protection programs of other states in Region 10 and nationally to assist Washington state's success.

Key resources to be applied to the NPDES program are represented in the table. Note that these FTE estimates are subject to change as Ecology program budgets are set, overall priorities are set, and Congress and EPA establish final federal grant awards. These activity categories are not mutually exclusive, and judgment calls were made to determine in which activities to show the FTEs. EPA FTEs include review of records, reports, data to determine compliance, and assistance to regulated entities (support to state is included in program development). Biosolids are included.

Activity	Federal	Ecology	EPA
Program Development	0	6.0	0.50
Permit Processing	0	27.0	0.50
Inspections	0	18.0	0.90
Report Review	0	14.0	0.20
Pretreatment	0	2.0	0
Data Management	0	4.5	1.0
Technical Assistance	0	13.0	0.30
Enforcement	0	6.0	0.30

2. Permit issuance

Ecology will:

Continue to manage and issue permits on a watershed basis. The basins scheduled for permitting in state fiscal year 1999 are Island / Snohomish, South Puget Sound, Okanogan, Crab Creek, Esquatzel. In addition, Ecology is converting to a comprehensive watershed approach for flooding, water quality, water availability, and shoreline / habitat issues.

3. Compliance

EPA and Ecology will:

Work cooperatively to develop NPDES and pretreatment program evaluation criteria, an evaluation process, and performance measures. EPA will lead this effort. This effort will be coordinated with Region 10's

and Region 10 states' effort to develop compliance/enforcement, program evaluation criteria, processes, and performance measures. Ecology will participate in this effort. Performance measures will be available for use by March 1999**,** at the latest for incorporation into next year's Performance Partnership Agreement.

4. Tribal municipal stormwater

EPA will:

Take the lead to work with the tribes and Ecology to develop an implementation strategy for bringing the Puyallup and Muckleshoot tribes into compliance with Phase I of the municipal stormwater program. EPA will suggest an approach by October 1, 1998.

5. Biosolids

Ecology and EPA will:

Continue to work together to make delegation of the biosolids program a reality. Ecology will submit an application for biosolids delegation by June 30, 1999.

6. Inspections

Using environmental criteria, Ecology will:

Inspect major and targeted minor permitted facilities during SFY 99. The inspection year covers the period July 1 through June 30. Since an inspection at a major facility requires more resources than an inspection at a minor facility, inspection tradeoffs should be 2:1 ratio (minors to majors). Ecology will provide to EPA the number of planned inspections for each fiscal year.

Ecology's Industrial Section is responsible for multi-media regulation of the pulp and paper mills, oil refineries and primary aluminum smelters in Washington State. The Industrial Section intends to continue to conduct NPDES compliance inspections of these facilities at least annually.

Ecology will provide to EPA information on the number of planned inspections of major and priority minor facilities annually and will report quarterly the results of the major inspections conducted.

Ecology will continue to provide wastewater treatment outreach technical assistance for small communities.

7. Pretreatment

Ecology welcomes EPA's support in coordinating pretreatment activities. EPA's pretreatment coordinator will participate in Ecology's work group meetings and conference calls as necessary to help facilitate program implementation and promote communication.

8. Performance Outcome Measures and Reporting for the State Enforcement and Compliance Program:

Ecology and EPA agree to:

Continue existing reporting on inspection and enforcement activity until further or new program performance measures are agreed upon and agree to continue the existing collaborative process to identify significant non-compliance (SNC) for major facilities.

9. NPDES and Pretreatment Compliance Inspection Activity

Ecology will:

Report, against annual targets, the number of inspections conducted at major NPDES facilities, priority minor NPDES facilities, and the number of pretreatment compliance inspections (PCIs) and audits conducted at POTWs with approved pretreatment programs to EPA. Region 10 will enter the necessary information in the PCS national database.

(1) NPDES majors. Ecology will forward copies of compliance inspection reports (EPA Form 3560-3) for major facilities to Region 10 through the Washington Operations Office (WOO) within 30 days of the date of the inspection unless a longer time period is necessary due to lab analysis.

(2) NPDES minors. Ecology will provide a hard-copy report from the state database containing the necessary inspection information for minor facilities to Region 10 through the WOO semi-annually.

(3) Pretreatment POTWs. Ecology will forward copies of compliance inspection reports (EPA Form 3560-3) for Pretreatment POTWs to the Region 10 Pretreatment Coordinator within 30 days of the date of the inspection unless a longer time period is necessary due to lab analysis.

10. Enforcement Activity and Reporting

Ecology is expected to:

Place priority attention on taking reasonable enforcement action against violations for NPDES majors that are designated as significant non-compliance (SNC), and to take enforcement action that is both timely and appropriate (T&A). An NPDES program timeliness criterion requires that the administering agency take some type of enforcement action (often informal) by the time a major permittee appears on the first QNCR. Prior to that permittee appearing on the subsequent QNCR for the same SNC violation, either the permittee must be in compliance or an appropriate formal enforcement action must be initiated against the permittee (generally within 60 days of the first QNCR) to achieve final compliance. Appropriate enforcement responses are defined consistent with the Agency's Policy Framework: Formal Notices of Violation, Administrative Orders, civil judicial referrals and judicial orders, or equivalent State actions.

a. Ecology will provide enforcement action information to Region 10 through the WOO. Region 10 will enter the necessary information in PCS.

NPDES majors. Ecology will provide copies of enforcement actions to major facilities to EPA as issued.

NPDES minors. Ecology will provide a hard-copy report from the state database containing the necessary enforcement action information for minor facilities to EPA semi-annually.

State civil referrals. Ecology will provide civil referral summary count information to EPA semi-annually using the form provided by EPA.

Settled or resolved cases and final assessed penalties. Ecology will report the number of settled or resolved cases and final assessed penalties to EPA semi-annually using the form provided by EPA.

11. Significant Non-Compliance (SNC)

NPDES Majors in SNC. EPA will provide information to Ecology on major facilities in SNC ***** through quarterly non-compliance reports (QNCR) and Exceptions lists (E.L.******). Ecology will review the QNCR and E.L. and provide explanations for those facilities listed to Region 10 through the WOO.

***** *The definition of SNC was modified to include violations of non-monthly averages, as well as, violations of 30-day, daily, and monthly averages. The revised SNC definition became effective on October 1, 1996, and is defined in the EPA document titled General Design for SNC Redefinition Enhancement in PCS, dated December 16, 1996.*

****** *The E.L. is a quarterly report that lists any major permittee which appears on the QNCR for two consecutive quarters for the same instance of SNC in PCS without a formal enforcement action being taken. The permittee must continue to be listed on the E.L. until the permittee either returns to compliance or is addressed with a formal enforcement order. The report also contains a justification of the administering agency's failure to respond to these 'priority violations' with a formal enforcement order within the timeframes specified. Once a formal enforcement action is taken, or a permittee has returned to compliance, the permittee will appear on the Resolved E.L. prior to being dropped from the E.L. altogether.*

Pretreatment POTWs in SNC. Ecology will report the facility names and NPDES permit ID numbers of POTWs with approved pretreatment programs in SNC (in accordance with the violation criteria established for Pretreatment Program SNC) to the Region 10 Pretreatment Coordinator quarterly.

Categorical Industrial Users (IUs). Ecology will report the facility names and state permit ID numbers of Categorical IUs discharging to POTWs without approved pretreatment programs; and the Categorical IUs of that universe that have been determined to be in SNC to the Region 10 Pretreatment Coordinator quarterly.

12. State NPDES Inspection Commitments and Requirements:

Ecology will:

Provide the number of planned inspections for major NPDES facilities, priority minor NPDES facilities (if the major facility inspection commitment is less than 100% coverage; the inspection tradeoff should be a 2:1 minors to majors ratio), and POTWs with approved pretreatment programs to Region 10 through the WOO annually. Inspection year 1999 covers the period July 1, 1998, through June 30, 1999.

Inspect priority major and minor NPDES facilities, and priority POTWs with approved pretreatment programs. Priority for inspections will be based, in part, by the watershed schedule for issuing and renewing permits.

Ecology's Industrial Section is responsible for multi-media regulation of the pulp and paper mills, oil refineries and primary aluminum smelters in Washington State. The Industrial Section intends to continue to conduct NPDES compliance inspections of these facilities at least annually.

SMALL COMMUNITY ASSISTANCE PROJECT

The Small Community Assistance Project provides technical assistance to communities 2,500 or less in population. In implementing this modestly funded effort Ecology must control expectations due to the limited resources available for this activity. The primary focus of the project has been in wastewater improvements through the Small Towns Environment Program (STEP) and through participation in the President's Northwest Timber Recovery Initiative. The agency themes of cleanup, prevention, and sustainability are all being realized through this effort.

Additionally, for SFY99, Ecology will establish an "Environmental Partnership with Washington Communities" (EPWC) pilot program to further the multimedia assistance to small communities afforded by EPA's Regulatory Flexibility Policy for Small Communities.

EPA is an important partner. EPA's sustainable communities efforts need to be partnered and coordinated with Ecology's efforts to maximize limited resources from both agencies. To that end, EPA and Ecology agree that:

EPA and Ecology will:

Make personnel resources mutually available, to the extent possible, to assist communities achieve environmental success.

Ecology will:

Actively participate in the EPA Region 10 Small Communities Clearinghouse; Ecology will invite EPA as an active participant in its assistance efforts with small communities.

FTEs: 0.0 Federal Funded 1.0 State Funded 1.0 Total

EPA will:

Communicate its intentions when working with specific communities, working with Ecology as a partner in those communities;

Support public information, education and outreach on environmental protection and sustainability in mutually agreed targeted communities.

PROGRAM COORDINATION AND EFFICIENCY IMPROVEMENTS

Ecology and EPA agree to pursue a performance partnership grant (PPG) for water covering eligible federal grants.

EPA and Ecology will:

Continue to work together on a range of activities begun in the previous year and will keep the improved lines of communication open at both the staff and manager levels of the two agencies as well as other interested parties and local, state, and federal agencies.

In addition to routine communication, key managers of EPA and Ecology will meet three times per year to discuss progress on Performance Partnership Agreement (PPA) commitments, new issues, needed communication improvements, and program implementation successes and problems. Ecology will take the lead on meeting schedules and agendas. Meetings in July, November and March are tentatively planned.

FTEs: 1.0 Federal Funded 1.0 State Funded 2.0 Total

FINANCIAL MANAGEMENT

Ongoing EPA will actively participate in Ecology's Financial Assistance Restructuring Committee according with the schedule outlined by Ecology. The committee will, among other items, actively work to develop strategies to use Ecology's Watershed Approach and/or other funding alternatives in the distribution of grant and loan funding insofar as possible. This effort will be in conjunction with similar ongoing efforts of other state and federal funding sources.

The "Ecology/EPA Operating Agreement for Clean Water Act Section 319 Nonpoint Source Grants Management," dated October 10, 1997, and the "FY99 Grant Award Process" are hereby incorporated by reference and will serve as the basis for EPA/Ecology coordination and 319 grants program implementation

FTEs: 12.5 Federal Funded 17.2 State Funded 29.7 Total

WETLANDS RESTORATION AND PROTECTION

FTEs 2.0 Federal Funded 5.0 State Funded 7.0 Total

FTEs 2.0 EPA

1. Hydrogeomorphic-based Function Assessment (HGM)

Ecology is currently coordinating with EPA in the development of a new method to quantitatively assess the functions of individual wetlands in Washington.

Ecology will:

HGM methods will be completed for the following classes

Riverine wetland class western Washington (December 1998)

Depressional wetland class Washington (December 1998)

Depressional wetlands class Columbia Basin eastern Washington (December 1999)

EPA will:

Continue to provide technical assistance to Ecology in the development of HGM wetland function methods.

2. Advancing River Management in Washington (Puget Sound Wetland Restoration Program)

Ecology will:

Develop a river basin-scale wetland restoration database within the Puget Sound basin using methods outlined in the Puget Sound Wetland Restoration Program.

Develop a case study report for the Snohomish and Skagit Basins that will include a wetland restoration site database.

EPA will:

Provide technical assistance in the ongoing work that is occurring in the Snohomish and Skagit Basin.

3. Eastern Washington Vernal Pool Wetland Assessment

Ecology will:

Assess characteristics and variables identified for closed depressional systems using the HGM approach. A report will be developed by September 1999.

Provide technical assistance

4. Assessments of Agricultural Cranberry bogs in Pacific and Grays Harbor County.

Ecology will:

Work with cranberry operators, U.S. Army Corps of Engineers (COE), U.S. Fish and Wildlife Service, EPA and Washington Department of Fish and Wildlife in the development of water quality standards for Clean Water Act (CWA) Section 404, Nationwide permit number 34.

EPA will:

Provide technical assistance

5. Wetland Enforcement Program

EPA will:

Work with local governments, private citizens and the COE in the enforcement of unauthorized fills in waters of the United States.

6. Water Quality Certification for CWA Section 404, and Rivers and Harbors Act of 1899, Section 10 and Section 9 permits.

Ecology will:

Process CWA Section 401 water quality certifications for CWA, Section 404 permits, and Rivers and Harbors Act of 1899 Section 10 and Section 9 permits.

Provide coordinated state response to ensure wetland protection and mitigation of unavoidable impacts.

Coordinate with EPA and other federal agencies to ensure aquatic resource protection on federal and tribal lands.

EPA will:

Continue to work with Ecology to assure that consistency and equity are maintained between Section 401 water quality certifications issued by the State of Washington in state

jurisdiction waters and for water quality certifications issued by EPA for Washington Tribes and on federal lands with exclusive federal jurisdiction.

SEDIMENTS

EPA and Ecology will:

- Continue to work with state and federal agencies to complete and implement the Interagency / Intergovernmental Agreement. This agreement is between EPA, COE and several Washington State agencies (DNR, Ecology, and PSAT) which will include a cooperative approach to sediment management issues and initiatives.
- Continue working with the US Army Corps of Engineers (COE), Department of Natural Resources (DNR), EPA, Puget Sound Action Team, Washington Public Ports Association, and US Fish and Wildlife Service on the Multi-User Disposal Site (MUDS) project. Complete a final programmatic EIS for sting one or more facilities for the confined disposal of contaminated marine sediments (spring 1999). Select a preferred alternative for the first Puget Sound MUDS facility (June 1999).
- Use new biological effects information and streamlined methodology to revise Puget Sound sediment quality values. Calculate new values based on adverse effects of sediment contaminants on bivalve larval development (March 1999) and finalize values based on polychaete growth (September 1998). Investigate the predictive reliability of new regulatory guidelines and criteria (June 1999).
- Continue to work with other federal, state, local agencies, tribes and the public to implement the Bellingham Bay Demonstration Pilot Project. Complete a combined programmatic and project SEPA EIS by May 1999.
- Continue to work with other federal and state agencies to promote the beneficial reuse of dredged material.
- Continue to work with other Washington, Oregon, and federal agencies to establish and implement coordinated programs to manage dredged material from the Columbia River. Dredged material evaluation manual to be finalized by July 1998.

Ecology will:

- Adopt revisions to state sediment quality standards by June 1999. Revisions will address public comments raised during the Triennial Review Process.
- Develop a strategy for evaluating and addressing sediment quality problems identified on the 303(d) list.
- Process CWA Section 401 water quality certifications for CWA Section 404 permits and Rivers and Harbors Act of 1899 Section 10 and Section 9 permits. Provide a coordinated state response to ensure compliance with sediment management standards, water quality standards, and dredged material management program (DMMP) requirements, and coordinate with EPA and other federal agencies to ensure compliance with applicable requirements.

FTEs	1.0 Federal Funded	3.0 State Funded	4.0 Total

SECTION SEVEN - Responsiveness Summary

The public review and comment period for this PPA was announced in late may and the PPA made available on June 1, 1998. Notification of the review was placed on the World-Wide-Web pages of both Ecology and EPA. Nearly 1000 notices announcing the availability of the PPA were mailed in May 1998. The Draft Environmental Performance Partnership Agreement was placed on the Ecology and EPA websites in June. Copies of the PPA were sent directly to Tribes in Washington State and to individuals that requested it.

Comments and Reponses are listed below. In addition to public comments, a number of relatively minor editorial and technical revisions were made after the public review period concluded. These revisions did not change the substance of the Draft PPA and are not listed in this responsiveness summary.

Muckleshoot Indian Tribe – Fisheries Department

Comment and Responses:

All actions in the PPA that have the potential to affect Tribal resources need to be coordinated with affected Tribes.

Timely cooperation and coordination is a stated 1999 PPA priority for Ecology and EPA and as such are addressed in the GUIDING PRINCIPLES AND STRATEGIES and ECOLOGY/EPA JOINT PRIORITIES portion of Section One of the PPA.

It is especially important that all ESA-related activities include Tribal notification and participation.

Ecology and EPA agree with this point and will work to ensure appropriate and timely notification and involvement of Tribal partners. The following statement will be added to the PPA Section One, Agreement Coverage section:

The Endangered Species Act and recent proposed and real listings in Washington State make it extremely important that Ecology and EPA pay particular attention to working with Tribes and Tribal interests as plans are made to address ESA issues.

EPA needs to emphasize this point with other agencies that implement environmental programs.

The above statement will be changed to read – EPA needs to emphasize to other agencies that implement environmental programs the importance of working with Tribes and Tribal interests.

The PPA should not just address the 1996 303(d) list. At a minimum Ecology should also develop a strategy for addressing new water segments that were not in the 1996 list but were added to the q998 list.

The 1998 303(d) list of impaired water bodies has recently been submitted to EPA and is not final until approved by EPA. After approval, Ecology will work with EPA to determine whether and how to integrate newly listed water bodies into the 15-year schedule for doing TMDLs.

EPA needs to clarify guidance and definitions regarding expectations for the 303(d) list. The minimum requirements for "other pollutants" should be clarified so that consistent interpretation and application is possible. As an example, the role of watershed analysis is not clear and the rules and interpretations continue to change.

EPA recognizes that the 303(d) listing process has evolved over time resulting in some changes to the listing process. However, the foundational principals and policies for 303(d) listing have generally stayed the same and are identified in Region 10 1995 Listing Guidance. This guidance does describe the needed elements of an "other pollution control requirement". In addition, EPA Headquarters usually provides additional guidance each listing cycle to clarify specific issues raised during previous listing cycles. This guidance is also provided to states for consideration in establishing their listing policies. In terms of watershed analysis,

if it is determined that watershed analysis contains the elements of another water pollution control requirement and that water quality standards will be achieved within a reasonable time frame, generally considered to be within two years, the water body need not be 303(d) listed. However, it should be noted that implementing regulations for 303(d) of the CWA are currently being revised. It is quite likely, that as a result of regulatory revisions, waters will have to remain listed until water quality standards are achieved regardless of the mechanism, i.e. a TMDL or other pollution control requirement, established to address the impairment.

The necessity of coordinating with Tribes was overlooked in discussions to integrate federal Clean Water and ESA requirements.

See Comment and Response 2 above.

HB 2514 limits opportunities for Tribes to participate in the TMDL prioritization process. To assure that Tribes continue to be recognized as vital stakeholders in watershed processes, EPA's fiduciary responsibilities to Tribes should be more visible.

In October 1997, EPA and Ecology signed a Memorandum of Understanding (MOU) defining how Section 303(d) of the Clean Water Act would be implemented in the State of Washington. The MOU describes when Tribes, EPA and local governments can get involved in the State's TMDL priority setting process. Please refer to pages 8 and 9 of the referenced MOU.

EPA needs to facilitate the development of a process so that Tribes are assured of an opportunity to participate in TMDL prioritization.

See number 7 above.

HB 2514 does not identify watersheds, but rather the governments wishing to develop and/or implement watershed plans determine the watersheds.

The sentence in question has been rewritten to more accurately reflect it's intent to do scoping for watersheds identified under the process established in HB 2514.

The watershed approach to dairy waste management should also target the Newaukum Creek basin in King County. This basin should be included in the PPA as a priority for the watershed approach to dairy waste management.

The request to list the Newaukum Creek basin in King County as a priority for the watershed approach to dairy waste management will be considered by Ecology as additional resources for this purpose become available.

EPA should have discussed the issue of developing an implementation strategy for bringing the Puyallup and Muckleshoot Tribes into compliance with Phase one of the municipal stormwater program before putting a schedule for doing so in the PPA.

Newaukum Creek was listed near the top of our list of priority projects to work on in our basin assessment. Unfortunately, our resources are insufficient to address Newaukum Creek this year. We hope to start Newaukum Creek after we complete our other, high priority, sub-basins.